



7-641A046

FEB 10 1977

Date \_\_\_\_\_  
Fees \$ 10

ICC Washington, D. C.

February 4, 1977

Hon. Robert L. Oswald  
Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

RECORDATION NO. 8668-A Filed &amp; Recorded

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INTERSTATE COMMERCE COMMISSION

Dear Sir:

Herewith for recording pursuant to Section 20c of the Interstate Commerce Act are executed counterparts of an Assignment of Lease and Agreement dated as of February 11, 1977, assigning to First Security Bank of Utah, N.A., as Trustee, SSI Rail Corp.'s interest in its lease of railroad equipment with the Lake Erie, Franklin and Clarion Railroad Company dated January 3, 1977, as and only to the extent that such lease relates to the equipment on Schedule A numbered LEF 1040-1049 to the Equipment Trust Agreement dated as of July 15, 1976, by and between First Security Bank of Utah, N.A., as Trustee and SSI Rail Corp., filed with the ICC on August 27, 1976 at 1:30 p.m. and assigned recordation number 8457 as amended by a Supplement to the Equipment Trust Agreement to be filed currently herewith. SSI Rail Corp.'s lease with the Lake Erie, Franklin and Clarion Railroad Company was filed with the ICC on January 21, 1977 at 2:30 p.m. and assigned recordation number 8668. These two recordings should be cross-referenced. ←

The addresses of the parties to the above-mentioned documents are as follows:

First Security Bank of Utah, N.A.  
79 South Main Street  
Salt Lake City, Utah 84111

SSI Rail Corp.  
Two Embarcadero Center  
San Francisco, California 94111

(1)

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I.C.C.  
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Hon. Robert L. Oswald  
February 4, 1977  
Page 2.

The equipment covered by this Assignment of Lease and Agreement bears the legend:

"Owned subject to a Security Interest filed under the Interstate Commerce Act, Section 20c."

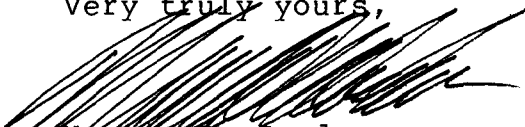
A check in the amount of \$10 for the required recordation fee is enclosed.

The obligations of SSI under the Equipment Trust Agreement are guaranteed by ITEL Corporation, One Embarcadero Center, San Francisco, California, 94111, the parent company of SSI.

Please accept for recordation two counterparts of the Assignment of Lease and Agreement. Please stamp the remaining counterparts with the appropriate recordation number and return them to the delivering messenger, together with your fee receipt and your letter confirming receipt addressed to:

First Security Bank of Utah, N.A.  
79 South Main Street  
Salt Lake City, Utah 84111  
ATTN: Robert S. Clark, Esq.

Very truly yours,



Martin D. Goodman  
Secretary

MDG:md  
Enc.

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~~CONFIDENTIAL~~

ASSIGNMENT OF LEASE AND AGREEMENT dated as of February 11, 1977 (hereinafter called this Assignment), by and between SSI Rail Corp., a Delaware corporation (together with its successors and assigns, being hereinafter called SSI) and FIRST SECURITY BANK OF UTAH, N.A. (hereinafter called the Trustee).

WHEREAS SSI has entered into an Equipment Trust Agreement dated as of July 15, 1976 (such Equipment Trust Agreement hereinafter, together with amendments and supplements thereto, being collectively called the Agreement); and

WHEREAS SSI and Lake Erie, Franklin & Clarion Railroad Company (hereinafter called the Lessee) have entered into a lease of railroad Equipment (as defined in the Agreement) dated as of January 3, 1977 (hereinafter, together with any amendments and supplements thereto, being called the Lease), providing for the leasing by SSI to the Lessee of the Trust Equipment (as defined in the Agreement);

WHEREAS the Lease may also cover the leasing to the Lessee of other Equipment not included as part of the Trust Equipment; and

WHEREAS in order to provide security for the obligations of SSI under the Agreement and as an inducement to the investors for which First Security Bank of Utah, N.A. is acting as Trustee to purchase Trust Certificates (as that term is defined in the Agreement), SSI agrees to assign for security purposes its rights in, to and under the Lease to the Trustee as and only to the extent that the Lease relates to the Trust Equipment;

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. SSI hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of SSI's obligations under the Agreement, all of SSI's right, title and interest, powers, privileges and other benefits under the Lease as and only to the extent that the Lease relates to the Trust Equipment, including, without limitation, all rights to receive and collect all rentals,

profits and other sums payable to or receivable by SSI from the Lessee under or pursuant to the provisions of the Lease to the extent that the same are payable in respect of the Trust Equipment, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments); provided, however, that until an Event of Default under the Agreement, or any event which with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that SSI shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to apply all Payments to which SSI is entitled to the payment of any and all of SSI's obligations under the Agreement. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, SSI hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of SSI or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which SSI is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Whenever the Lease covers other Equipment not included as part of the Trust Equipment and the amount of any payment due to SSI under the Lease is calculated on an aggregate basis for all Equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to the Trust Equipment, including, without limitation, (i) to the extent aforesaid, all moneys due and to become due to SSI under or in connection with the Lease, whether as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues, payments in connection with damage to or destruction of any unit of the Trust Equipment, claims for damages or otherwise, (ii) all rights and powers of SSI under the Lease to exercise any option, to consent or make any waiver or agreement or to take any other action with respect to any unit of the Trust Equipment, and (iii) all rights and claims of SSI to insurance proceeds with respect to any unit of the Trust Equipment. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of Equipment comprising the Trust Equipment and the denominator of which shall be the aggregate number of units of Equipment at the time leased under the Lease.

2. This Assignment is executed only as security

for the obligations of SSI under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of SSI under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of SSI to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against SSI or persons other than the Trustee.

3. To protect the security afforded by this Assignment, SSI agrees as follows:

(a) SSI will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by SSI.

(b) At SSI's sole cost and expense, SSI will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of SSI under the Lease.

(c) Should SSI fail to make any payment or to do any act which this Assignment requires SSI to make or do, then the Trustee, but without obligation so to do, after first making written demand upon SSI and affording SSI a reasonable period of time within which to make such payment or do such act, but without releasing SSI from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of SSI contained in the Lease; and in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and SSI will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all SSI's obligations under the Agreement, this Assignment and all rights, herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in

and to the Lease shall revert to SSI.

5. SSI will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure, the interests of the Trustee hereunder.

6. In the Event of Default under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder. The Trustee will give written notice to SSI and the lessee of any such assignment.

7. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names, by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

SSI RAIL CORP.,

by

  
Vice President

[Corporate Seal]

Attest:

  
Assistant Secretary

FIRST SECURITY BANK OF UTAH, N.A.,  
as Trustee,

by   
Authorized Officer

[Seal]

Attest:

  
Authorized Officer

STATE OF CALIFORNIA                    )  
  )  ss.:  
COUNTY OF SAN FRANCISCO,        )

On this 3<sup>rd</sup> day of February 1977, before me personally appeared Patrick B. McManes, to me personally known, who, being by me duly sworn, says that he is a Vice President of SSI RAIL CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Terry L. Russell  
Notary Public

My Commission expires

STATE OF UTAH                            )  
  )  ss.:  
COUNTY OF SALT LAKE,            )

On this 7<sup>th</sup> day of February 1977, before me personally appeared ROBERT S. CLARK, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Candace L. Crane  
Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires Sept. 27, 1980